

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

JUAN MALDONADO-SALAZAR,

CV. 11-1164-SU

Petitioner,

FINDINGS AND RECOMMENDATION

v.

STEVE FRANKE,

Respondent.

SULLIVAN, Magistrate Judge.

On October 13, 2011, the court advised petitioner that if he wished to continue with this 28 U.S.C. § 2254 habeas corpus action, he must show cause why his case should not be summarily dismissed with prejudice on the grounds that he: (1) procedurally defaulted his claims; and (2) failed to timely file this action. The court specifically advised petitioner that his failure to satisfy the court's Order to Show Cause within 30 days would result in the dismissal of his case with prejudice.

Petitioner has not responded to the Order to Show Cause in any way. As a result, the Petition for Writ of Habeas Corpus (#1) should be summarily dismissed. See 28 U.S.C. § 2254(b); Rule 4, Rules Governing Section 2254 Proceedings, 28 U.S.C. foll. § 2254 (permitting summary dismissal of petition).

RECOMMENDATION

The Petition for Writ of Habeas Corpus (#1) should be summarily dismissed, and the court should enter a judgment dismissing this case with prejudice. The court should also decline to issue a Certificate of Appealability on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

SCHEDULING ORDER

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due within 14 days. The Findings and Recommendation will go under advisement on that date.

DATED this 21st day of November, 2011.

/s/Patricia Sullivan

Patricia Sullivan

United States Magistrate Judge